

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11	RICHARD A. CONNORS,)	Civil No. 08cv1134-L(LSP)
12	Plaintiff,)	
13	v.)	ORDER GRANTING TEMPORARY
14	HOME LOAN CORP. dba EXPANDED)	RESTRAINING ORDER [doc. #5]
15	MORTGAGE CREDIT, <i>et al.</i>)	and ENJOINING THE SALE OF
16	Defendants.)	PROPERTY; TO SHOW CAUSE
)	WHY A PRELIMINARY
)	INJUNCTION SHOULD NOT ISSUE

Plaintiff Richard A. Connors (“Connors” or “plaintiff”) filed this action on June 24, 2008, alleging violations of the Truth in Lending Act (“TILA”), 15 U.S.C. § 1640 *et seq.*; the Real Estate Settlement Procedures Act (“RESPA”), 12 U.S.C. § 2614; the Home Ownership and Equity Protection Act (“HOEPA”), 15 U.S.C. § 1602 *et seq.*; breach of fiduciary duty; breach of covenant; to quiet title; and for declaratory relief. Plaintiff initially sought a temporary restraining order (“TRO”) with notice to prevent a foreclosure sale of his home on July 3, 2008 by defendants. A hearing on the TRO was set and held on July 2, 2008, at which time the Court denied without prejudice the temporary restraining order for failure to demonstrate a likelihood of success on the merits or that serious questions were presented.


Plaintiff has filed a second TRO that is filed with notice as to defendant Cal-Western Reconveyance Corp. The Court held a hearing on the second TRO again finding irreparable harm and that the balance of hardships tips strongly in plaintiff’s favor.

1 The second TRO sets forth as a basis for injunctive relief RESPA, 12 U.S.C. § 2605, a
2 section that is not alleged in the complaint. Plaintiff complaint alleges a cause of action under
3 RESPA, 26 U.S.C. § 2607, which addresses the prohibition against kickbacks and unearned fees
4 which was not supported in the original TRO application. The Court has permitted plaintiff to
5 orally amend the complaint to allege a cause of action under section 2605 and to file an amended
6 complaint within 24 hours of the filing of this Order. Plaintiff was sworn and testified that he
7 never received notice of the assignment, sale or transfer of his loan. Based on this testimony, the
8 Court finds that serious questions have been raised and a TRO will issue.

9 Good cause appearing, plaintiff's second application for TRO is **GRANTED**. Cal-
10 Western is enjoined from conducting a sale of the subject property pending a determination on a
11 preliminary injunction. Bond is waived. **IT IS FURTHER ORDERED** that plaintiff shall file
12 an amended complaint within 24 hours of the filing of this Order. **IT IS FURTHER**
13 **ORDERED** that plaintiff shall file and served all defendants with a motion for preliminary
14 injunction not later than **Monday, July 7, 2008 at 12:00 p.m.** Defendants shall file a response
15 in opposition to the motion for preliminary injunction not later than **Friday, July 11, 2008 at**
16 **5:00 p.m.** **IT IS FURTHER ORDERED** that a hearing on plaintiff's motion for preliminary
17 injunction shall be held on **Tuesday, July 15, 2008 at 10:00 a.m.** in Courtroom 14.

18 **IT IS SO ORDERED.**

19 DATED: July 2, 2008 at 4:55 p.m.

20 
21 M. James Lorenz
United States District Court Judge

22 COPY TO:

23 HON. LEO S. PAPAS
24 UNITED STATES MAGISTRATE JUDGE

25 ALL PARTIES/COUNSEL
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